

EXHIBIT 2

Golden Gate Reporting

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IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

David Davis and Page Case No.: C 07-3365 EDL
Gearhart-Davis PRO SE,

Plaintiffs,

vs.

Clearlake Police
Department,

Defendant.

DEPOSITION OF DAVID DAVIS

DATE: May 6, 2008

TIME: 10:33 a.m.

LOCATION: 600 Administration Drive
Law Library, Room 213 J
Santa Rosa, California 95401

REPORTED BY: Cindy L. Boccaleoni
Certified Shorthand Reporter
License Number 12987

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1 A P P E A R A N C E S

2

3 For the Plaintiffs:

4 David Davis, Pro Se

5 P.O. Box 3225
6 Clearlake, California 95422

7 For the Defendants:

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1 I N D E X

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3 EXAMINATION BY: PAGE:

4 MR. ALLEN 4

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6 E X H I B I T S

7 Defendant's Exhibit:

8 None marked

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1 was involved in an accident in, I want to say,
2 March or April of 2006, which Celli said he had
3 never met me nor seen me before, which he was the
4 officer on the scene. It's on, once again,
5 another complaint.

6 Q. Let me back that up.

7 A. Okay.

8 Q. You said you'd been living in Clearlake
9 three -- approximately three to three and a half
10 years. Can you give me approximately the month
11 or the season you moved to Clearlake? So like
12 was it in the spring or the fall or the winter of
13 2005, 2006, March of 2005, 2006? Can you give me
14 some sense of when you moved there?

15 A. We have always came back and forth
16 fixing up one of our houses, and we had
17 initially, I want to say, moved out there
18 probably around October or November of '06 -- I'm
19 not for sure. It could possibly be '06, I want
20 to say.

21 Q. Early '06?

22 A. No, late. I just said --

23 Q. Spring, summer '06?

24 A. October, something October.

25 Q. Well, the incident occurred in August of

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1 '06. That's why I'm thinking that you lived
2 there.

3 A. Well, it had to be '05, then. Excuse
4 me. My bad. That was an honest mistake. Honest
5 mistake.

6 Q. It's understandable. What I'm trying --

7 A. I understand you're -- what you're
8 trying to nail and what you're trying to get at.

9 Q. Let me try and explain something here.

10 A. Okay.

11 Q. All I'm here today to do, which I'm
12 entitled to do under the law --

13 A. Okay.

14 Q. -- is to question you, to get as much --

15 A. Yeah, I -- that's perfectly fine.

16 Q. -- to get as much background information
17 as I can to find out the facts supporting your
18 claims --

19 A. Okay.

20 Q. -- what you believe are the facts
21 supporting your claims.

22 A. All right.

23 Q. This is just a question-and-answer
24 period. It is an interrogation that we're
25 allowed under civil law. It's not meant to be

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1 incident occurred on August 3rd, 2006?

2 A. Well, actually, the first incident
3 occurred August 2nd, but initial complaint was
4 never filed, but I did speak with -- I believe it
5 was Captain Larsen.

6 Q. Okay. I stand corrected. Your
7 complaint does mention October 2nd, 2006.

8 A. Yes.

9 Q. So here's what I want to do. Between
10 September of 2005 and August 2nd, 2006, were
11 there any -- did you have any contacts with the
12 Clearlake Police Department?

13 A. Yes, I did.

14 Q. Okay. Can you list them for me and the
15 approximate time; so the approximate time and
16 what the incident was?

17 A. Okay. My first encounter was when I was
18 involved in an incident. A gentleman had, I
19 believe, stole something out of the store, and he
20 was running across the street, and he ran into my
21 car traveling down Lakeshore Boulevard. And
22 Sergeant Celli, along with a few other officers,
23 had arrived on the scene. An ambulance came.
24 Highway patrol came. But needless to say, I was
25 found not to be at fault for that incident.

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1 And let me see. Any other encounters?

2 Oh, yeah. Another encounter was I was pulled
3 over by another officer who just gave me a
4 warning for excessive music.

5 Q. Do you remember when that was,
6 approximately?

7 A. To be honest with you, no.

8 Q. But it would have been --

9 A. I just, you know, recall the incidents
10 and encounters I had with the Clearlake police
11 officers.

12 Q. Okay. And do you remember that
13 officer's name?

14 A. No, I don't.

15 Q. And just to be clear, this would be
16 before August of '06?

17 A. Yes.

18 Q. Do you remember if it was a man or a
19 woman?

20 A. It was a man.

21 Q. Do you know what time it --
22 approximately the time of day?

23 A. I know it was during the daytime, so I
24 don't know if that's considered morning, evening,
25 afternoon shift.

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1 Q. "Daytime" is fine.

2 What vehicle were you driving?

3 A. My root-beer-brown Cougar.

4 Q. So prior to August 2nd, 2006, there were
5 at least two encounters. Do you recall any other
6 encounters with Clearlake Police Department prior
7 to August of '06?

8 A. I seen them just riding around, but, you
9 know, as far as, "Hey, come here. What's your
10 name? You look suspicious," no.

11 Q. Okay. So the first -- in August -- on
12 August 2, 2006, Clearlake Police Department
13 officers contacted you; is that correct?

14 A. Yes, they approached me.

15 Q. Okay. What were you doing at the time?

16 A. Well, as I pulled into the gas station,
17 I noticed two officers had a gentleman pulled
18 over in a truck. I got out of my vehicle. Page
19 went into the gas station to pay for the gas. I
20 believe it was like 25, \$30. I was filling the
21 tank up.

22 And she came out and put the gas nozzle
23 in the vehicle. As it was pumping -- and we were
24 standing on the side watching these officers as I
25 noticed him watching me.

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1 Q. Mm-hmm. Keep going.

2 A. One of them approached me, asked me, "Is
3 this your car? Do you live out here? What are
4 you doing out here? Do you have driver's
5 license, registration?" I provided them with
6 license, proof of insurance, and showed them
7 proof that the vehicle was, in fact, in the
8 process of being registered.

9 And then that's when the whole thing
10 brought on about, "Hey, we don't like your kind
11 out here," you know, "You need to move," you
12 know, as they admitted to in some of their
13 statements, which was later altered and changed.

14 I do admit that after those words, after
15 he told me that "We don't like your kind" and
16 that "You need to move," I took that very
17 offensively and felt that this officer was being
18 very unprofessional and disrespectful.

19 So I disrespected him back, not in a
20 threatening manner, just in a way as, "Hey, look.
21 You know, you just can't talk to people like that
22 because you're in a police uniform." You can't
23 just walk up to people and tell them, "Hey, we
24 don't like you kind of people out here." To me,
25 that's profiling. That's racism right there, my

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1 personal opinion, for somebody to tell you, "Hey,
2 we don't like your kind of people out here and
3 you need to move."

4 Q. Do you remember the officer's name that
5 approached you first?

6 A. To be honest with you, no, I don't.

7 Q. Do you remember if it was Celli? Was
8 Celli in uniform that night?

9 A. Both officers were in uniform, and they
10 were in two separate cars.

11 Q. Okay. The officer that approached you,
12 was it the officer wearing the stripes, the one
13 who first walked up to you?

14 A. To be honest with you, I don't recall.

15 Q. Do you remember which officer made the
16 comments to you regarding "We don't like your
17 kind here"?

18 A. Well, both -- Miller was the one that
19 initially started the whole "Hey, we don't like
20 you kind of people out here, and you need to
21 move." And from that point, you know, it was
22 just a bunch of bickering and nagging going on.

23 To be honest with you, Dale, you know,
24 okay, fine. You can bring up the point that hey,
25 you know, I'm a convicted felon. But you also

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1 have to take into account that, hey, a person
2 that's been in that situation avoids police
3 officers and any confrontations with the police.
4 That's obvious. That's just from experience.
5 Hey, I don't want no problem with the police
6 officers, you know.

7 So hey, I provided them with everything
8 that was required, you know. Celli says, "Hey"
9 -- all he wanted to know, "Hey, man. Where is
10 your license plates?"

11 Well, in fact, there's no way you can
12 see the license plates on a 1967 Cougar. There's
13 no way possible because in order to pump gas into
14 a 1967 Cougar, the license plates have to be
15 folded down, which the statements was later
16 changed in -- what was the officer's name, the
17 officer that was with Celli that night? Miller,
18 the same officer who altered a tape from a court.

19 So, you know, it's not like, you know, I
20 approached these officers and just immediately
21 start harassing them. I've never in my life
22 heard of anybody being approached while pumping
23 gas into a vehicle.

24 And hey, "We don't like you kind of
25 people out here." I understand you're an

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1 incident itself in a little more detail.

2 A. All right.

3 Q. One of the officers came up. You can't
4 remember which of the two first approached you.
5 And they -- according to your complaint, you said
6 they asked for your driver's license,
7 registration and proof of insurance?

8 A. Yes.

9 Q. Prior to them -- that officer asking you
10 for that, did he say anything else to you? Did
11 he say anything to you first?

12 A. About the whole incident, the way he
13 approached me was, "Hey, is this your car? Do
14 you live out here? What are you doing out here?"
15 This is how the whole conversation started.
16 There was no conversation about no license plates
17 until after the whole fact, after they searched
18 my vehicle and everything.

19 Q. All right. So first officer comes up
20 and says, "Is this your car? Do you live out
21 here? What are you doing out here?" What did
22 you say back?

23 A. I told him I just moved out here.

24 Q. Then what did the officer do?

25 A. Got out of the car, started looking

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1 around the car. By this time the other officer
2 walked up, looking around the car, looking inside
3 the car. And at this time, this is when all the
4 verbal exchange -- verbal words started being
5 exchanged. "Well, hey, we don't like you kind
6 out here."

7 And I asked him, "Well, what do you
8 mean, my kind, my kind of people? What are you
9 trying to say?" I took that offensively.

10 Q. Okay. Let me --

11 A. I admit that. I took that very
12 offensively.

13 Q. What I want to do is just go step by
14 step at the moment, all right, so you get a
15 chance to explain all of this. I'm going to go
16 step by step.

17 You mentioned that the first officer
18 comes up and asks you some questions about your
19 car and where you live, and you say you just got
20 out here. You said that he got out of his car.
21 Did that first officer drive his car over towards
22 you, or did he walk over towards you?

23 A. To be honest with you, I can't recall.

24 Q. Okay. After he walked over to you and
25 asked you the question and you said you just

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1 as far as my tattoos and his tattoos. To be
2 honest with you, that's as far -- you know,
3 that's what I can recollect from that incident.

4 Q. Okay. At some point one of the officers
5 asked you for identification. Do you remember
6 which officer asked you for identification?

7 A. No, I do not.

8 Q. Had Page come out of the store at that
9 point?

10 A. Yeah. She was on the side the whole
11 time.

12 Q. And the officer asked you for
13 registration and insurance information?

14 A. Yes.

15 Q. Did they tell you why they were asking
16 you for that?

17 A. No, they didn't.

18 Q. After the officers took that
19 information, did one of them write you up for a
20 ticket?

21 A. Yes.

22 Q. Do you remember what the ticket was for?

23 A. Unregistered vehicle and allegedly a
24 cracked windshield.

25 Q. And the unregistered vehicle, you

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1 mentioned earlier that you had -- you were in the
2 process of changing the registration?

3 A. Well, Mr. Allen --

4 Q. Or did I misunderstand that? It's an
5 opportunity to explain.

6 A. The way -- the way they got the
7 information off the vehicle was from the paper
8 that I showed them that the vehicle was in
9 process of being registered.

10 Q. Okay.

11 A. I requested from your clients a dispatch
12 record check that night. And apparently there
13 was -- no dispatch had been done to verify any of
14 that. So he just wrote the ticket up based up-
15 -- based upon the information I have from DMV.

16 But I also provided him with proof of
17 insurance and a driver license, which was not
18 actually a photo identification because I just
19 recently had my driver's license renewed. You
20 know how they send you that piece of paper in the
21 mail and they said they give you four to six
22 weeks before you receive your actual photo ID in
23 the mail. That was the identification, driver
24 license I provided to these officers that
25 particular night.

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1 Q. That -- let's go to the temporary
2 registration for the moment. You had a temporary
3 registration certificate that you showed the
4 officers?

5 A. No, it was not a temporary registration.
6 The officer asked me, "Do you have any proof to
7 show that the vehicle is at least in process of
8 being registered?" And I provided him with it.

9 Q. What was this process of registration
10 that you showed him?

11 A. Well, I just had a new motor put in it
12 and a new exhaust system, and it was still in the
13 process of nonoperating -- it was back and forth
14 from the automotive shop, basically.

15 Q. So did you --

16 A. And it was money being tangled up in the
17 automotive shop and through DMV. It was like
18 \$255 owed. The reason -- part of the cost was
19 because the license plates on the vehicle, the
20 person I purchased the vehicle from, they were
21 personalized license plates.

22 Q. Do you know -- do you know what a permit
23 of non-operation is, a PNO?

24 A. Yes, I do.

25 Q. Okay. Was this vehicle -- did this

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1 vehicle hold a PNO at the time?

2 A. No, I don't believe, no.

3 Q. But the registration was expired on it?

4 A. Yes.

5 Q. And what you had was something you
6 showed them that you were in the process of
7 taking care of that expired registration?

8 A. Yes, yes.

9 Q. But it was not taken care of yet at the
10 time?

11 A. That's what I stated.

12 Q. Okay. And then with -- you had
13 insurance? You had a proof of insurance
14 certificate you showed them?

15 A. Yes.

16 Q. Do you still have that proof of
17 insurance? Because -- let me back up for a
18 second. In your complaint you attached an
19 exhibit, Exhibit A: "Mercury Cougar was sold so
20 David Davis no longer has the registration and
21 insurance."

22 Do you have any evidence still at your
23 house where you have that vehicle's insurance on
24 August 2nd, '03 -- sorry -- August 2nd, '06? Do
25 you have any evidence of the insurance policy in

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1 the --

2 A. Because there was more stuff that I was
3 still going to bring over as well.

4 Q. The proof of insurance that you had that
5 night, you showed it to the officers. Did you
6 have proof of insurance in the car with you?

7 A. Yes.

8 Q. And you showed that to the officers?

9 A. Yes.

10 Q. And he still wrote a ticket that you
11 didn't have any insurance?

12 A. He marked it off. He wrote the ticket
13 up, telling me, "Hey, this is not insurance."
14 And you know, I'm showing this officer, "Hey,
15 look, man. You can't write a ticket telling me I
16 don't have insurance when I'm showing you the
17 proof of insurance right here."

18 Q. All right. Okay. Then they cited you
19 also for a cracked windshield?

20 A. It wasn't a crack. It was a line, I'd
21 say, five, six inches long on the bottom of the
22 windshield from the incident I was involved in,
23 the accident I was involved in a few months prior
24 to that.

25 Q. How long was the line?

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1 A. I'd say no longer than seven, seven
2 inches.

3 Q. But what would you call this line? Is
4 it cracked? Is it a defect in the windshield? I
5 mean, how would you categorize it?

6 A. It would be a defect in the windshield.
7 I guess if it had a spider crack, it still would
8 be considered a defect. I had a ticket for that
9 before.

10 Q. Who gave you that ticket?

11 A. This is way back, way back.

12 Q. Not for that crack, but for another
13 crack on a different car?

14 A. Yes, only this is --

15 Q. Was it a similar type crack on the other
16 citation?

17 A. No, it was a -- you know how a diesel on
18 the freeway throws a little rock and puts a
19 little --

20 Q. Absolutely.

21 A. Yeah.

22 Q. And I'm watching the clock.

23 After they gave you the tickets --
24 during the course of the time they gave you the
25 ticket was when the comments were made about "We

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1 don't want your kind here"?

2 A. Before the tickets.

3 Q. Before the tickets.

4 At any time did the officers direct any
5 profanity at you?

6 A. Yes.

7 Q. What kind of profanity?

8 A. Is it common for a police officer to
9 tell somebody, "We don't like your kind of people
10 out here"?

11 Q. Now, let me just make sure you're clear
12 on what I mean by "profanity." You understand
13 what "profanity" is, as opposed to --

14 A. Cuss words.

15 Q. Cuss words.

16 A. Yes, there was cuss words exchanged. I
17 don't recall what cuss words was exchanged, but
18 hey, look, everybody cusses. It's not like these
19 officers weren't cussing just as well.

20 Q. What I'm getting at is that you cussed
21 and they cussed. Both of you were cussing back
22 and forth?

23 A. Yeah.

24 Q. Okay. Were any racial terms used by the
25 officers at you?

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1 A. Mr. Allen --

2 Q. It's just a straightforward question.

3 I'm not -- I understand that there was a verbal
4 exchange taking place, and I understand that you
5 felt that --

6 A. You don't consider that racial?

7 Q. What I'm looking for is specific racial
8 words. Did they call you a nigger? Did they
9 call you a boons -- call you a coon?

10 A. Mr. Allen, don't disrespect me like
11 that. I didn't call you a white European.

12 Q. No.

13 A. Don't call me a nigger.

14 Q. That's not my point. I'm not calling
15 you that. What I'm asking you is, in your claim
16 you have a racial bias claim in here. One way of
17 proving racial bias is that the officers used
18 words like that. So I need to know --

19 A. If this officer is telling me, "We don't
20 like you kind of people, not only am I saying
21 this, but other witnesses in this community have
22 heard these officers say this about me."

23 Q. We're going to talk about that later.

24 We are going to talk about that.

25 A. To me, yes, that is racial.

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1 Q. That's fine. There's a distinction
2 here, all right? The distinction is you can make
3 an effort to prove your case of racial animus
4 because they're directing actions towards you and
5 you feel they're directing them towards you
6 because you're black, right, or someone's Asian
7 or someone's Hispanic or someone's American --
8 native American Indian.

9 One way of proving it directly is if
10 they're using language that is commonly
11 understood in the community to be a derogatory
12 term for someone, such as calling -- use a '60s
13 term. You're too young for this, but a '60s term
14 for a white guy is a "honkey." All right?

15 A. I know about that.

16 Q. Or call them "trailer trash," you know,
17 and things like that that you'll often hear down
18 in the South for white -- poor white. So that's
19 -- those are terms that can be construed and are
20 clear terms that people understand to be
21 derogatory terms that are racially motivated. So
22 what I'm asking --

23 A. Mr. Allen, I know a lot about racism.
24 You don't have to explain to me about honkeys,
25 white trash, like that -- niggers. I know all

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1 about that.

2 Q. I'm going to ask this question so --

3 A. I'm well-experienced in that department.

4 Q. I'm going to ask this question so we can
5 move on to the next area -- we can take a quick
6 break so the court reporter can move her car --
7 is -- did the officers use any derogatory racial
8 language towards you, specific language that you
9 understand to be racially derogatory?

10 A. Once again, in my opinion, what this
11 officer told me, that "We do not like you kind of
12 people out here," was a racial statement.

13 Q. That's clear in the record. That's
14 clear in your pleadings, and that's clear on the
15 record. My question is -- because you haven't
16 answered my question -- did they use any other
17 words or any other language?

18 A. Probably behind my back.

19 Q. No, did you hear -- but did you hear it?

20 A. Mr. Allen.

21 Q. You got to answer the question;
22 otherwise, we're not going to be able to continue
23 the deposition.

24 A. I gave my answer for that. To my
25 belief, in my opinion, what this officer stated

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1 to me was a racial statement. That's my answer
2 to your question.

3 Q. See, Mr. Davis, the thing we may need to
4 do -- really seriously need to do is continue
5 this deposition and I'll ask Judge LaPorte to
6 provide a courtroom, and we'll go do the
7 deposition down in the courtroom and then she can
8 come in from time to time and rule on your
9 objections, because you're posing an objection,
10 in essence, by not answering the question.

11 A. Okay. Let's move on. No, I did not
12 hear this officer make any --

13 Q. Racially --

14 A. -- name-calling as far as the "N" word
15 or any other nicknames they come up with. No, I
16 did not.

17 Q. Thank you.

18 A. Except for that statement that he made
19 and that he suggested that I move.

20 Q. And that record's clear, and that's part
21 of your evidence. I'm not objecting to that, and
22 I'm not saying that it isn't part of your case.
23 I need to complete my case.

24 A. Okay. Fine.

25 Q. I need to get the whole circle, not just

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1 Q. Can you think of anything else that
2 occurred that night right then and there before
3 the officers left that we haven't talked about?
4 For example -- let me go back -- did the officers
5 ever lay hands on you that night at that first
6 stop, search you?

7 A. Well, he told me to sit on the curb,
8 which I refused to sit on the curb.

9 Q. All right. Did he make you sit on the
10 curb by putting his hands on you?

11 A. No. He told me, "You need to sit on
12 that curb over there."

13 Q. And you refused?

14 A. And I told him, "I ain't sitting on no
15 curb. I didn't do nothing to deserve to sit on
16 no curb."

17 Q. Did he search you that night?

18 A. He searched my vehicle.

19 Q. Did he actually physically go in the
20 vehicle or walk around the vehicle and shine his
21 light into the vehicle?

22 A. He went and looked in my vehicle.

23 Q. Did he open the doors?

24 A. The door was already -- the driver's
25 side door was already open.

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1 Q. Did he stick his head in the car?

2 A. Yes, he did.

3 Q. Did he move anything around?

4 A. No, he looked in. I was standing at the
5 trunk. All I seen was this officer looking
6 around all inside my vehicle.

7 Q. Did you ever see him put his hands on
8 any of your items --

9 A. I couldn't even see him. I was standing
10 at the rear of the vehicle.

11 Q. Did Miss Davis ever tell you she saw the
12 officer move any items in your car around?

13 A. You would have to ask her that.

14 Q. I think you answered this, but did you
15 ever see him open the glove box or any portion of
16 your car?

17 A. I couldn't see him. I just seen --
18 while I'm talking to the officer -- say, me and
19 him talking. The car's right here. I look back;
20 I see this officer looking all inside my car
21 through the driver's side. I don't -- I didn't
22 consent to no search.

23 MR. ALLEN: Why don't we take a break so
24 you can move your car.

25 (Recess).

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1 BY MR. ALLEN:

2 Q. After you were cited and released that
3 evening, where did you guys go?

4 A. To the house.

5 Q. And sometime the following day another
6 incident occurred?

7 A. Well, the following morning we went in
8 to speak to Captain Larsen in regards to the
9 incident the previous night.

10 THE REPORTER: "Captain Larsen"?

11 THE WITNESS: Larsen.

12 MR. ALLEN: Captain Larsen, L-a-r-s-e-n.

13 BY MR. ALLEN:

14 Q. And what did you tell Captain Larsen?

15 A. I explained to him what happened that
16 night, and he basically told me he would speak
17 with these officers and don't worry about it.

18 Q. And you were provided the internal
19 affairs investigation information and audio. Did
20 you review that before your deposition?

21 A. In regards to which one, the 08-03?

22 Q. 08-03. When you first saw Dr. --

23 Mr. Larsen, Lieutenant Larsen, Captain Larsen.

24 A. They never sent me anything.

25 Q. Okay. You don't have any information on

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1 that visit from Captain Larsen? That's not been
2 provided to you?

3 A. Dirk Larsen stated that he -- that in
4 the memorandum that Larsen has stated something.

5 Q. Right.

6 A. But we never received anything from what
7 Larsen has stated to Celli in his interoffice
8 memorandum, so I have no idea what was stated
9 from Larsen to Miller or Celli or any other
10 officer involved.

11 Q. And did you tell Captain Larsen
12 essentially the same thing you just told us now
13 in the deposition about the incident of August
14 2nd?

15 A. Yes.

16 Q. So after that you returned home, and
17 there was another incident involving a couple
18 officers a little later that day?

19 A. Later on that night, yes.

20 Q. About what time was that, approximately?

21 A. Roughly -- I'm going to guesstimate,
22 say, between 12:00 and 2:00.

23 Q. Okay. So it was at nighttime?

24 A. A.m. -- a.m., p.m. Well, p.m. and a.m.,
25 combination of the two.

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1 Q. Where were you coming from?

2 A. Flyers gas station, the same gas station
3 previous to the night before.

4 Q. Okay. I'm going to -- I need to go
5 back. The night before, what time was it that
6 you had contact with the police officers at the
7 gas station?

8 A. Roughly around 1:00.

9 Q. 1:00 in the morning?

10 A. 1:00 -- 1:00 -- between 1:00 and 2:00.

11 Q. Roughly.

12 So where were you coming from?

13 A. My home.

14 Q. Had you been drinking that night?

15 A. No. If I had been drinking, would I
16 have gotten a drunk driving or DUI or something?

17 Q. Just asking the question.

18 A. Oh, okay.

19 Q. The night the second incident occurred,
20 where were you coming from?

21 A. Flyers gas station.

22 Q. No, where were you coming from before
23 from the gas station?

24 A. My home.

25 Q. Okay. Had you been drinking that

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1 evening?

2 A. No.

3 Q. What car were you driving?

4 A. On which occasion?

5 Q. The second night, the second incident.

6 A. I wasn't driving.

7 Q. What car were you occupying?

8 A. What was that? A Chevy Suburban.

9 Q. Was Page driving that?

10 A. Yes.

11 Q. And did you have contact with police

12 officers that evening?

13 A. Yes.

14 Q. And what happened?

15 A. Do you want me to go in detail, or just
16 something brief, fast, real quick?

17 Q. Well, whatever you feel most comfortable
18 with.

19 Were you pulled over by the police?

20 A. Well, as we approached a stop sign -- I
21 can't recall what street it is -- we noticed a
22 police officer parked down a dark dirt road. As
23 soon as we proceeded through the stop sign, he
24 immediately got behind us, pulled us over. I
25 want to say we turned the corner, I want to say,

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1 not even a block away from when he first got
2 behind us. Officer Hobbs approached --

3 THE REPORTER: Officer who?

4 THE WITNESS: Hobbs, H-o-b-b-s.

5 -- and Officer Hardisty approached the
6 driver's side, asked Page for her license, proof
7 of insurance and, you know, things of that
8 nature.

9 He immediately looked over at me and
10 asked me what's my problem, do I have an
11 attitude? And I looked at him and told him, "No,
12 I don't have no problem or no attitude." He came
13 around, asked me do I have any ID. I provided
14 him with the ID, the same ID I provided the
15 officer with the previous night before, interim
16 driver's license.

17 He pulled me out of the vehicle, told me
18 how he was detaining me for not having proper
19 photo identification, walked me back to the
20 police car, placed me in the vehicle. Within a
21 couple seconds, couple minutes, I started having
22 an asthma attack, coughing real loud. Officer
23 Hobbs opened the door, grabbed me by my right
24 arm, pulled me out the vehicle onto my stomach,
25 placed his knee onto my back, removed the

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1 handcuffs. At this time, this is when I noticed
2 Celli standing over me.

3 BY MR. ALLEN:

4 Q. When Hobbs came up to you and asked you
5 for identification, you gave him the interim
6 driver's license from the night before?

7 A. Yes, sir.

8 Q. He said to you that this wasn't --

9 A. He didn't even look at it.

10 Q. All right. And then he asked you to get
11 out of the car, or did he put --

12 A. At first he asked me why didn't I have
13 the seatbelt on. And you know, I told him, "Hey,
14 look, you don't reach for stuff when you see the
15 police walking up to the car." You know, that's
16 a quick way to get, you know --

17 Q. Were you wearing a seatbelt at the time
18 that the officer -- you were in the car and --

19 A. No. I admitted I didn't have a seatbelt
20 on. No, I didn't have a seatbelt on.

21 Q. After Hobbs cited you for the seatbelt,
22 is that when he asked you for the identification?

23 A. Yeah, he asked me for my identification.
24 First he asked me, Hey, what's my problem, what's
25 my -- do I -- "What do you have an attitude for?"

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1 What are you laughing for?" This is before the
2 whole --

3 Q. Were you laughing?

4 A. This before the -- this was even before
5 Page could say -- answer him in regard to, "Do
6 you have driver's license, proof of insurance,
7 registration," those -- that thing in nature. He
8 immediately directed all his attention towards
9 me.

10 Q. So were you laughing when he walked up
11 to you? Do you remember?

12 A. Not that I recall.

13 Q. Okay.

14 A. When he asked me do I have a problem and
15 attitude, yes, I did snicker. It was funny.

16 Q. And then he asked you why you didn't
17 have a seatbelt on, and you said it was
18 because --

19 A. I told him, you know, I'm not going to
20 reach for a seatbelt while an officer's, you
21 know, standing right there at the vehicle.

22 Q. After that occurred, what did he do
23 next?

24 A. He immediately walked around -- you
25 know, this is before the incident -- or after the

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1 incident with the whole driver's license. You
2 know, he asked me for --

3 Q. You had this verbal exchange. What did
4 he do after the verbal exchange?

5 A. Now, he's still on Page's side. He's
6 asking asked me about the seatbelt, for my
7 license -- I mean, a photo identification. I
8 told this officer -- I said, "Hey, look. This is
9 the only form of identification I have. It's a
10 DMV printout of my interim driver's license."

11 He immediately came around to the other
12 side. "I'm detaining you for not having no --
13 proper identification on you."

14 Q. So Hobbs and Hardisty both walked up on
15 Page's side?

16 A. Yes.

17 Q. Then he walked around the corner --

18 A. And I would also add that they were in
19 the same vehicle. They were now two -- they were
20 not in separate squad cars.

21 Q. Right.

22 A. And the tow truck driver will confess to
23 that, as well. He had written out a statement
24 that I will submit before the 28th, as well.

25 Q. And then Hobbs walked around to your

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1 side. Did he then order you out of the car?

2 A. Yes.

3 Q. Did he put hands on you --

4 A. He placed me in handcuffs.

5 Q. I'm going to get there step by step.

6 When you were in the car and he ordered
7 you out, did he put hands on you before you got
8 out of the car?

9 A. No.

10 Q. Okay. When you got out of the car, did
11 he put you in a search position on the car?

12 A. He immediately grabbed me and placed
13 handcuffs on me.

14 Q. When you say he grabbed you, how did he
15 grab you?

16 A. Grabbed me by my arms, you know. I'm
17 not going to resist no officer and go to jail for
18 something ridiculous.

19 Q. I understand that.

20 When he you grabbed you, did he grab you
21 in a forceful manner, or did he put you -- grab
22 your one hand and put it behind your back, the
23 other hand, put it behind --

24 A. Once he told me to turn around, I turned
25 around. And he placed the handcuffs on me,

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1 walked me back to the police car.

2 Q. You complied with his orders, in other
3 words?

4 A. Yes, sir.

5 Q. He didn't grab you so much as he took
6 your hands after you put them behind your back
7 and he put handcuffs on them?

8 A. Yes. As you noticed in the photo, how
9 tight those cuffs were -- just cuts into my
10 wrist.

11 Q. And did he tell you why he was
12 handcuffing you?

13 A. For not having any identification on me.

14 Q. Did he tell you you were under arrest?

15 A. He told me "I'm detaining you -- you are
16 under arrest. I'm writing you -- I'm putting you
17 in the back of this police car for not having no
18 identification." He basically didn't even look
19 at the paper that I was trying to give him. Just
20 basically like, "Okay. We got him now. Call the
21 Sergeant Celli."

22 THE REPORTER: "Call the
23 Sergeant Celli"?

24 THE WITNESS: Yes.

25 BY MR. ALLEN:

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1 Q. Okay. So he puts you in the back of the
2 radio car. Did you hear a radio report -- did
3 you hear them asking for Celli? And just -- if
4 you didn't, it's okay.

5 A. I was in the back of the police car. I
6 can't recall.

7 Q. That's fine. That's fine.

8 You started to have an asthma attack?

9 A. Yes.

10 Q. How long have you had asthma?

11 A. My whole life.

12 Q. Did you have an inhaler on you?

13 A. Page has it in her purse. She has it in
14 her purse right now as we speak.

15 Q. Okay. Did you start yelling for help,
16 or did you hear Page yelling or someone yelling?

17 A. Well, once Page heard me coughing and
18 telling this police officer I can't breathe, she
19 attempted to get out of the vehicle to find out
20 what was going on back there. And Officer
21 Hardisty told her to stay in the vehicle, and she
22 stayed up in the front with Page in the front of
23 truck.

24 As Hobbs opened the door, he pulled me
25 out onto my stomach, placed his knee in my back

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1 and removed the handcuffs. And I leaned up on my
2 elbows and -- Clearlake is a very dusty town,
3 especially in the summertime, and the dust was
4 just adding to it.

5 Q. So Page starts to get out. Hardisty
6 tells her to stay in the car. Hobbs comes back
7 and takes you out of the backseat.

8 A. Hobbs is already still back there. He
9 -- I don't know what he's doing, if he's on the
10 cell phone or whatever he's doing.

11 Q. He was standing by the back of the car
12 when you started to have your asthma attack?

13 A. Yes.

14 Q. You start to have your asthma attack,
15 and you start to yell, "I can't breathe"?

16 A. Yes.

17 Q. Something like that. And then --

18 A. Well, he heard me coughing.

19 Q. You're coughing and you're yelling, "I
20 can't breathe"?

21 A. Yes.

22 Q. Hobbs goes and pulls you out of the
23 backseat of the car?

24 A. From my right arm and pulls me down onto
25 the ground.

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1 Q. Did he say anything to you as he was
2 pulling you out of the car?

3 A. To be honest with you, Mr. Allen, at
4 that time -- I just blanked out after that. I
5 can't recall. You know, the last thing I
6 remember was the tow truck guy pulling up, taking
7 the vehicle.

8 Q. Okay. So Hobbs grabs you, pulls you out
9 of the car, pushes you to the ground; right so
10 far?

11 A. He didn't grab me out of the vehicle and
12 throw me on the ground. I was seated in the back
13 of the police car, and he grabbed me from my
14 right hand. He didn't help me out the car.

15 Q. But you were able to get out?

16 A. No, I was pulled out of the vehicle --

17 Q. Right.

18 A. -- onto the ground. I was not helped or
19 stood up out the vehicle. I was pulled from the
20 vehicle.

21 Q. Pulled from the vehicle. Does he push
22 you to the ground, or do you fall to the ground
23 as he was pulling you out?

24 A. He pulled me from the vehicle.

25 Q. Okay. You end up on the ground?

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1 A. On my stomach, yes.

2 Q. All right. As best you remember, did
3 you fall to the ground as he pulled you out of
4 the vehicle, or did he push you to the ground as
5 he pulled you out the vehicle?

6 A. If you're sitting down --

7 Q. Just your best memory. It's not --
8 again, I go back. I'm just trying to get an
9 understanding. If you --

10 A. I understand what you're saying, but --

11 Q. Go ahead.

12 A. It's a commonsense question. If you're
13 sitting down and handcuffed and you're pulled out
14 of the vehicle, how can you be pushed? You have
15 to be pulled.

16 Q. Okay. So you end up on the ground?

17 A. Yeah.

18 Q. But if he's pulling you out, he could
19 have been pulling you up, or he could have been
20 pulling you down?

21 A. No, he was not -- he was not pulling me
22 up.

23 Q. Was he pulling you down or pushing you
24 to the ground?

25 A. He just pulled me out of the vehicle.

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1 Q. Got it. All right.

2 And when you're on the ground, he put
3 his knee in your back?

4 A. To remove the handcuffs.

5 Q. Were you struggling because of your
6 asthma attack?

7 A. No, I wasn't struggling.

8 Q. Were you still coughing because of your
9 asthma attack?

10 A. Yes.

11 Q. Was -- were you moving around a lot
12 because of your asthma attack, trying to get your
13 breath, as someone, you know, moving and jerking
14 around because you can't breathe?

15 A. Well, he was handcuffed face-first in
16 some dust. I couldn't breathe. And all I felt
17 was his knee in my back. And next thing you
18 know, the cuffs were removed, and I was on my
19 elbows like this (indicating), coughing.

20 Q. And I'm not saying or trying to suggest
21 that you were resisting him, but because you were
22 having an asthma attack and you can't breathe,
23 were you struggling because you are in this
24 position with your arms behind your back?

25 A. I was struggling to breathe.

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1 Q. Right. That's what I'm asking you.

2 Were you struggling and moving around, trying to
3 get your breath?

4 A. I was struggling to breathe. I wasn't
5 struggling, resisting or --

6 Q. Exactly.

7 A. -- fighting this officer or no nature of
8 that.

9 Q. I got that.

10 A. Nothing -- no part of that.

11 Q. I got that. But I am entitled to have
12 you describe the way your body was moving. How
13 would you describe the way your body was moving
14 because of the asthma attack?

15 A. Well, internally my lungs was begging
16 and pulling.

17 Q. How about your upper body?

18 A. I was face-first in the dirt.

19 Q. Well, you weren't lying perfectly still,
20 were you?

21 A. His knee was in my back. There was not
22 too much moving I could be doing.

23 Q. Prior to him putting his knee in your
24 back to take the handcuffs off, was your
25 shoulders moving, was your body moving at all,

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1 trying to get your breath?

2 A. Not that I can recall.

3 Q. He puts his knee in his back -- in your
4 back.

5 A. In my back.

6 Q. And how long did it take before he put
7 his knee in your back and he got the handcuffs
8 off?

9 A. As soon as I -- as soon as I was out the
10 vehicle.

11 Q. He was able to get the cuffs off right
12 away?

13 A. No, not right away. I mean, if you see
14 a person choking and gagging, you don't place
15 your knee in their back. I mean, if that's a
16 life response technique taught to officers, they
17 should re-evaluate their technique. I mean --

18 Q. If you -- is it possible to -- you know,
19 like, one, two, three, four, five...

20 A. Count how long it took the officer to
21 remove the handcuffs?

22 Q. If not --

23 A. No, I couldn't. To be honest with you,
24 no, I couldn't.

25 Q. That's fine. That's all I'm asking you,

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1 best memory.

2 A. No, I can't.

3 Q. So the handcuff -- he gets the handcuffs
4 off. You know, what happens next?

5 A. I lean up on my elbows. I'm coughing
6 for, what, five, ten more minutes. By this time,
7 I don't know who had called an ambulance. I
8 heard Page and Hardisty arguing -- Officer
9 Hardisty arguing in front of the vehicle.

10 She's telling them, "Hey, what's going
11 on back there?" Hardisty is telling her, "Don't
12 worry about it. He's fine. Don't worry about
13 nothing. It's all right."

14 This time Sergeant Celli was there. I
15 don't know how long before that. Paramedics had
16 arrived. They placed me in the back of the
17 ambulance. Sergeant Celli walked up to the back
18 of the ambulance. At this point I was like,
19 "Naw," you know, "I'm not going to no hospital
20 with this police officer right here," so I
21 refused treatment.

22 I have a nebulizer in my home, so I just
23 told the ambulance, you know, "I'll just go to
24 the house," because it was not even a block away
25 from my house where they pulled me over. Went to

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1 Q. Okay. Now -- but in the time between
2 the asthma attack -- actually, from the moment
3 you were stopped and Hardisty and Hobbs
4 approached you and Page until the time the
5 ambulance arrived, did any of those three
6 officers at any time use any racially derogatory
7 words directed at you or Page? And this goes
8 back to same stuff we talked about before.

9 A. Yeah, I know when -- when Hobbs placed
10 the handcuffs on me, he told me, "These are good
11 and rusty."

12 Q. Okay. And --

13 A. But as far as the "N" word and --

14 Q. Right.

15 A. -- you know, all of those, you know, no.

16 Q. Okay.

17 A. I didn't -- I didn't hear him.

18 Q. Okay. And I'll ask Page the same
19 questions. Now, the ambulance arrived, and in
20 your complaint you said one of reasons that you
21 refused to go in the ambulance, because you were
22 fearing for your life?

23 A. Yes.

24 Q. Why were you fearful for your life if
25 you went in the ambulance?

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1 Page Gearhart-Davis in fear to leave their home
2 during Sergeant Celli's evening shift."

3 Are these the three tickets you're
4 referring to where one was for the dirt bike?

5 A. Yes, sir.

6 Q. So when was the dirt bike ticket given,
7 approximately?

8 A. 09-27.

9 Q. Okay. On 09-27. What happened on
10 09-27-06?

11 A. While riding a dirt bike off-road.

12 Q. Who?

13 A. Me and Page.

14 Q. Okay. Are you on separate bikes or the
15 same bike?

16 A. On the same dirt bike, 350 Yamaha.

17 Q. Who was driving?

18 A. I was driving.

19 Q. Okay.

20 A. On off-road. Sergeant -- I mean -- not
21 Sergeant -- Officer Hobbs, riding down the street
22 on the side of the dirt trail coming the opposite
23 direction, seen us, made a U-turn, pulled us
24 over, wrote a ticket for unregistered vehicle,
25 driving out of class, littering. It was a bunch

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1 of -- I can't -- it's probably written in there,
2 but the ticket was extremely, ridiculously long.
3 I mean, the ticket -- the judge fined me over
4 \$1,200.

5 Q. Did Celli come to the scene?

6 A. He was there within minutes.

7 Q. Okay. And were you given one ticket
8 with a lot of violations or separate tickets?

9 A. I was given a ticket, and Page was given
10 a ticket.

11 Q. And do you remember what your ticket was
12 for?

13 A. My ticket was for operating a vehicle
14 out of class -- which I explained to them you
15 don't need a driver's license to operate an
16 off-road vehicle, which he later stated, "Hey,
17 you were on this paved road, not on that dirt
18 trail that I just seen you on" -- littering,
19 unregistered dirt bike, no helmet. And I believe
20 that will put the icing on the cake, I believe.

21 Q. Littering?

22 A. Yes.

23 Q. And no helmet?

24 A. Yes.

25 Q. And unregistered dirt bike?

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1 A. Yes. I'll be sending that too, the
2 registration, to show that it was registered, in
3 fact.

4 Q. Okay.

5 A. Well, he seen the ticket.

6 Q. Do you know what Page was cited for?

7 A. No helmet.

8 THE REPORTER: "No" what?

9 THE WITNESS: No helmet.

10 And I believe -- I don't want to speak
11 for her ticket. I'm not absolutely sure. But I
12 do know one of them was -- I believe was no
13 helmet. I can't recall the other, if there was
14 another one.

15 BY MR. ALLEN:

16 Q. Were these tickets dismissed, or were
17 they found -- were you found guilty on those
18 tickets?

19 A. What's so crazy about that is that was
20 the first ticket the judge heard, and he judged
21 me without hearing the other cases and found me
22 guilty on all of them, but after he heard the
23 other tickets, he seen the pattern and dismissed
24 them like he dismissed the incident from the
25 night at the gas station.

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1 Q. So guilty on the motorcycle; dismissed
2 on the other cases?

3 A. Dismissed on 08-02, suspended on the
4 seatbelt.

5 Q. What did that mean, by the way? I
6 didn't understand that.

7 A. What's that?

8 Q. "Suspended on the seatbelt"?

9 A. Suspended fine, as far as paying the
10 fine. He racked me up good that day in court.

11 Q. Okay. So he ended up fining you for the
12 motorcycle, dismissing the 08-02 citations, and
13 then he dismissed 08-03 except for the seatbelt;
14 he just didn't fine you for it?

15 A. Yes. No, he -- yeah, he didn't dismiss
16 it. He just didn't fine me for it.

17 Q. Was Page fined for the 08-03 ticket or
18 given a fix-it?

19 A. 08-03 ticket.

20 Q. That was the one you were driving?

21 A. I believe -- I'm not absolutely sure. I
22 don't know if it was a fix-it ticket or --

23 Q. I'll ask her.

24 A. I have no idea.

25 Q. I'll ask her.

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1 Q. We're going to do that next.

2 A. And then the allegedly 911 phone call
3 from my home.

4 Q. But that was in January; that was later?

5 A. No, that -- yeah, they said it was in
6 January.

7 Q. What I'm doing is, I'm just working --

8 A. Working down it, okay.

9 Q. -- working through your complaint.

10 A. Okay.

11 Q. So your complaint says there was
12 constant harassment. You've detailed -- you've
13 told us what it was up until now. Anything else
14 where Celli had contact with you or your wife
15 prior to December 27th?

16 A. No.

17 Q. Okay. On December 27th you and your
18 wife saw Celli and an Officer Labbe parked.

19 A. Labbe.

20 Q. Labbe, Labbe.

21 A. That's what I called him, and he got
22 mad.

23 Q. And when you went past them, they pulled
24 you over. They pulled you over, correct?

25 A. Yes.

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1 Q. And what car were you driving? Or what
2 car -- who was driving?

3 A. Page was driving.

4 Q. And what car was she driving?

5 A. A van.

6 Q. Okay. Do you remember the kind of van
7 it was?

8 A. It was a van -- door -- traveling van.

9 Q. So a panel van?

10 A. Yeah -- no, not a panel van. It was
11 like a vacation van.

12 Q. Did it have windows around it?

13 A. Yeah, windows and...

14 Q. Anyone else in the car besides you and
15 Page?

16 A. On 12-27 I could -- I might -- I could
17 say -- I don't want to -- I could think my kids
18 were in the vehicle, as well.

19 Q. Do you remember about what time of the
20 day or evening it was or night?

21 A. It was -- it was on Sergeant Celli's
22 shift, so I was -- it was on his shift.

23 Q. Was it still daylight or was it
24 nighttime?

25 A. It was just getting --

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1 Q. Dusk?

2 A. -- dark, yes.

3 Q. And did they -- who approached,

4 Sergeant Celli or Officer Labbe?

5 A. Labbe.

6 Q. Labbe.

7 A. Labbe approached Page. Celli approached
8 my side with his hands on his gun.

9 Q. Okay. Labbe give Page a ticket?

10 A. Yes.

11 Q. And do you know what the ticket was for?

12 A. Allegedly obstruction of license plates.

13 Q. That was the ball hitch?

14 A. Yes. I'll send you a picture to show
15 that there's --

16 Q. That's okay.

17 A. -- no way possible a ball hitch could
18 obstruct the license plate.

19 Q. The turn signal?

20 A. Have you -- you've been out to
21 Clearlake, right?

22 Q. Yeah. But I'm just asking, did he give
23 her a ticket for not using the turn signal, not
24 whether she did or she didn't.

25 A. I think he gave her a warning on that, I

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1 believe.

2 Q. Okay. Did you hear -- was there --

3 there was a conversation between Officer Labbe
4 and your wife?

5 A. Yes, it was right -- I heard everything.

6 Q. Did he disrespect her in any way during
7 that conversation?

8 A. He lied.

9 Q. Beside that?

10 A. No. Labbe is a -- to me, to be honest
11 with you, he's a perfectly fine officer. He was
12 just manipulated on that particular night. I
13 have no problems -- I'll state it for the record.
14 I have no problem with police officers. I stay
15 away from them. I don't give them no problem. I
16 don't look for no problems from the police. I do
17 believe police are needed in the community. But
18 it is bad apples in the bunch. We all know weeds
19 grow in gardens.

20 Q. You want to get this done in time to get
21 home, you're going to have to --

22 A. Oh, my bad. My bad. Okay. I just had
23 to --

24 Q. I got you. I know. There's times you
25 just have to get it off your chest.

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1 You said Labbe lied. What did he lie
2 about?

3 A. Well, as we approached Lake Shore,
4 Officer Celli and Labbe were parked in the
5 parking lot across the street. As we approached
6 Lake Shore, as we made a right turn, I seen them.
7 I'm looking dead at these two officers in two
8 different squad cars immediately pull out and
9 were like one or two cars behind us. And as soon
10 as they had the opportunity to pull us over,
11 Labbe pulled us over.

12 Q. Go ahead.

13 A. And I asked him, "What did you pull us
14 over for?" As soon as I seen Celli, I already
15 knew what time it was. I was like, "Here we go
16 again."

17 Q. Okay. So did you ask him what you were
18 pulled over for?

19 A. He alleged it was from a ball hitch and
20 not using the turn signal on the street that you
21 don't need --

22 Q. Okay.

23 A. Well, to my knowledge, I don't think you
24 need to put on a turn signal. It would be
25 falsifying the direction to put on the turn

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1 signal.

2 Q. Okay. And he gave her a ticket for
3 expired registration?

4 A. Expired registration, no proof of
5 insurance -- which we had just purchased that
6 vehicle not even 30 days previous to that, and
7 the license plates stated that the tags
8 expired -- well, you know, I assumed in the end
9 of December, but the tags apparently expired a
10 few days previous to this accident. And Page had
11 showed him proof of insurance, and he still wrote
12 it on the ticket. But we had it signed off from
13 the Lake County Sheriff and just ended up paying
14 \$10.

15 Q. For the lack of registration?

16 A. No, for the --

17 Q. For the fix-it ticket?

18 A. He said the light was not working, but
19 it was working.

20 Q. Okay.

21 A. So it was a \$10 fix-it ticket.

22 Q. Were you able to produce that -- did
23 Page produce proof of valid registration to
24 Officer Labbe?

25 A. Like I said, we had just purchased the

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1 vehicle not even 30 days previous to that. And I
2 thought -- apparently I was under the wrong
3 assumption that when a tag says like, expires
4 June of '07 --

5 Q. Mm-hmm.

6 A. -- at the end of June it expires, so
7 come July, you're --

8 Q. That's -- that's a specific date.

9 A. Right. That was my assumption of...

10 Q. Tell me what Celli was doing with his
11 hand on the gun when he was next to you.

12 A. The whole time he was just standing on
13 the passenger side right on my window with his
14 hands on his gun. And when we first pulled up, I
15 told Page, "Immediately start blowing the horn."
16 The people directly in front came outside and
17 watched the whole thing.

18 Q. Did you get their names?

19 A. I have that. I'll submit all that.

20 Q. Do you have the names of the people?

21 A. I don't have their names. I went by
22 their house, spoke with them. She's contacting
23 her son, who actually witnessed the whole thing,
24 so...

25 Q. So the son witnessed it?

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1 A. Matter of fact, Celli told him to go
2 back in the house.

3 Q. Do you remember the address?

4 A. I can get the address for you.

5 Q. And there was a young man that watched
6 this?

7 A. A young man and a woman.

8 Q. Can you tell me about how old they were?

9 A. No, I couldn't. All I can do is tell
10 you they were European Caucasians.

11 Q. I mean, were they adults or teenagers?

12 A. Adults. Adults.

13 Q. When Celli was standing there with his
14 hand on his gun, what was he doing? Did he have
15 it around the grip? Did he ever take it out?
16 What did you see?

17 A. No, he didn't take it out. He just had
18 his hand placed on it, like, "Move, I'll bust a
19 cap on you."

20 Q. Okay. Did he ever say anything to you?

21 A. No, the whole time he didn't say -- oh,
22 as a matter of fact, he ran my name through a
23 dispatch because I heard it through his little
24 walkie-talkie.

25 Q. He never spoke to you, but you overheard

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1 as well. This is the captain of the police
2 department that she said said that.

3 Q. All right. How many times did Celli
4 drive by your house during -- between August of
5 '06 and December of '06?

6 A. Oh, my gracious. I would see these guys
7 ride up and down Second Street so many different
8 times. It -- it would get to the point where,
9 you know, they would drive by slow, looking at
10 the house and, you know, different -- different
11 -- different times.

12 Q. More than once a day?

13 A. I would say on his shift -- not during
14 -- I never had any problems during the day shift.
15 Never had not one ticket, one incident during the
16 day-shift officers.

17 Q. Okay. How many times a shift -- how
18 many times a day on the Celli shift would you say
19 you saw officers --

20 A. I can't actually pinpoint the number
21 down, but I can say more --

22 Q. More than five? Less than five?

23 A. Yes. More than ten. I can say more
24 than ten times.

25 Q. Okay. More than ten times a day. All

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1 right.

2 A. No, no. I'm not -- I'm not saying more
3 than ten times a day, now.

4 Q. Well --

5 A. Hold on.

6 THE REPORTER: We're really talking over
7 each other.

8 THE WITNESS: Oh, you're good.

9 BY MR. ALLEN:

10 Q. Okay. The question I asked --

11 A. No, I'm not saying more than ten times.

12 Q. More than ten or less than ten?

13 A. He -- I noticed him drive past my home
14 more than ten different occasions during that
15 time, that whole -- not during one day, but the
16 whole --

17 Q. Ten times in the --

18 A. More than --

19 Q. -- months between August and --

20 A. Even at ten -- I'll just say numerous to
21 keep it open in digits.

22 Q. Well, "numerous" could mean a thousand.

23 A. Exactly. Or it could mean three.

24 Q. Right. So --

25 A. That's why I'm saying --

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1 Q. You really don't know how many times
2 that he drove by?

3 A. Well, I could say numerous amounts of
4 times. I can't just say "ten times" and just put
5 a number on there. If you're going to quote me,
6 quote my exact words. Not "ten"; "numerous."

7 Q. See, again, I'll go back to that
8 original admonition I gave you. I'm not asking
9 you to guess or speculate, but I am entitled to
10 your best estimate. And one way of developing a
11 measurement is to try and come up with kind of a
12 parameter.

13 So I'll give you a parameter. There's a
14 given shift. And in a given shift -- is it
15 possible to say on a given shift you saw them
16 more than once a day on a given shift drive by
17 your house? Is it possible? If it's not
18 possible, it's not possible.

19 A. Before you -- okay. I understand what
20 you're saying, that you have to have a number to
21 put in there.

22 Q. Not "a number."

23 A. Okay.

24 Q. But I'm entitled to an estimate if we
25 can agree on a parameter. So I'll give you for

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1 example --

2 A. Okay. We can say --

3 Q. Is it possible to say by a day or
4 possible to say by a week or possible to say by a
5 month? So for example -- just for example, I
6 think that it would be fair to say that "maybe
7 two or three times a week" or "four or five times
8 a month" or "I -- I can't say at all. I just
9 remember seeing him go by my house, but I
10 couldn't tell you how many times either by the
11 week, by the month or in that six months."

12 A. And "numerous" is not --

13 Q. "Numerous is --

14 A. -- recognizable in this situation.

15 Q. -- a very speculative -- it's a
16 speculative number. Even you said it. It could
17 be a thousand; it could be three times. Do we
18 know what that is?

19 A. Okay. Well, we can say --

20 Q. I'm just trying to think is there
21 another way you could come up with it?

22 A. We can just -- because I don't want to
23 quote something that's not true, and I don't want
24 no words --

25 Q. Say "approximate."

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1 A. I don't want no words --

2 Q. Say "approximate."

3 A. Approximately numerous different times,
4 then.

5 Q. Okay.

6 A. Is that all right with you?

7 Q. That's your answer. I can't make you
8 say something --

9 A. I mean, I don't want to -- I mean, I'm
10 trying to cooperate with you.

11 Q. Wait. I can't make you say what you
12 don't want to say.

13 A. It's not that I don't want to say. It's
14 because I don't know how many times. All I know
15 is --

16 Q. All right. That's an answer.

17 A. -- it's numerous different times. It's
18 stated right there.

19 Q. That's an answer.

20 There was an occasion when he went by
21 your house claiming that he had received a 911
22 call, and you took a videotape of that?

23 A. Yes.

24 Q. And do you still have the videotape of
25 that?

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1 A. Yes, I have the video.

2 Q. Do you remember approximately when that
3 occurred?

4 A. What date it was? I'll submit that by
5 May -- by the 28th. The video will be submitted
6 by the 28th.

7 Q. Does the video have audio on it?

8 A. Yes.

9 Q. Did anyone make a 911 call from your
10 house that day?

11 A. No.

12 Q. Celli responded. Did any other officers
13 respond?

14 A. It was another officer I never seen
15 before.

16 Q. Do you know if he was --

17 A. His name is somewhere in something you
18 guys had sent. I can't recall his name.

19 Q. Did Celli use any profanity or racial
20 slurs that day toward you?

21 A. No.

22 Q. Okay. Did he make any threats or
23 threatening gestures towards you that day?

24 A. He threatened me by coming to my home,
25 Mr. Allen.

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1 Q. I understand that.

2 A. He threatened me by coming by my home.

3 Q. Mr. Davis, you have a burden of proof,
4 and I have a burden to rebut that.

5 A. That's threatening me.

6 Q. That's fine.

7 A. You're coming to my home wearing a
8 badge.

9 Q. Mr. Davis, I'm accepting that as your
10 transcript testimony.

11 A. Okay.

12 Q. But I'm entitled to follow up with
13 questions about it.

14 A. Okay.

15 Q. All right. You can offer your answer.
16 That doesn't mean I'm not allowed to ask a
17 follow-up question, so I'm asking a follow-up
18 question.

19 A. Okay.

20 Q. Other than coming to your house, did he
21 do anything else? You have, for example,
22 described how he put his hand on his gun in one
23 instance. Did he do anything like that when he
24 came to your house that night?

25 A. Okay. First, I've said he came to my

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1 home. Second, I'm saying that he can use his
2 badge to do that.

3 Q. Sure.

4 A. Is that all right? Is that a good
5 statement?

6 Q. Absolutely. And I'm asking you is there
7 anything else he did that you can remember?

8 A. He used the police department to do
9 something that was not -- why would I call the
10 police --

11 Q. I have no idea.

12 A. -- on his shift?

13 Q. I have no idea.

14 A. I had his shift completely logged down
15 to a "T."

16 Q. What I want to know now -- so there was
17 nothing else that you can describe beside the
18 fact he used his police car, his badge, and he
19 showed up on your property? He didn't gesture
20 with his gun or his hand or anything, like he
21 didn't make any gestures?

22 A. Well, once he seen me pull out the video
23 camera, he took off and ran behind some bushes.

24 Q. Okay. And that's all on the video?

25 A. Everything.

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1 Q. All right. We're going to ask for that
2 video. We thought that was --

3 A. Well, you don't have to ask for it
4 because I'm going to submit it.

5 Q. Sounds good.

6 A. Now, the video, I had the lens on it,
7 but you can hear the whole complete conversation.

8 Q. All right. So --

9 A. You hear -- you hear Sergeant Celli --
10 well, I'll just send it instead of stating,
11 because I don't want to say something and then
12 you turn around and say, "That's not what he
13 said." I'll send it by the 28th.

14 Q. The video will speak for itself.

15 A. Exactly.

16 Q. All right. Now, your next paragraph
17 goes on to say that you and your wife organized
18 monthly meetings with the community of Clearlake.

19 How many meetings did you have?

20 A. Once a month for -- I want to say from
21 September -- well, the Department of Justice
22 came --

23 Q. Well, let's just start with the meetings
24 before we get to the department. I'm going to
25 ask you. Believe me, I think I've shown you I do

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1 ask all those questions that you want to raise,
2 right?

3 A. Yeah.

4 Q. Okay. So why don't we start with this
5 because it stays more in a continuous manner.

6 A. Okay. I'm going to say --

7 Q. You held meetings once a month --

8 A. From September, October, November,
9 December, and the last meeting I had was in
10 January.

11 Q. '07?

12 A. Yes.

13 Q. During these meetings, you said other
14 people came and complained about the police
15 department?

16 A. Oh, numerous, numerous.

17 Q. Do you have the names of any of the
18 people who attended and complained about the
19 police department?

20 A. I sent you all that information.

21 Q. Okay. I'll double-check it, and I'll
22 follow up.

23 A. Okay.

24 Q. Any of the people you spoke to have
25 specific incidents involving Officer Celli?

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1 A. Well, the last paper I sent you was
2 involved with a citizen by the name of Anthony
3 Williams. I sent you the newspaper article in
4 regards to that. Did you receive that?

5 Q. I may have. I can't remember.

6 A. It was in regards to Officer Miller
7 ripping off his colostomy bag off of a gentleman.
8 And that was one of problems we had as far as the
9 things you guys is saying. As far as the
10 officers -- complaints filed against officers,
11 that was one of them that was withheld on
12 Miller's alleging that there was no other
13 complaints filed against him. It was in the
14 newspaper.

15 Q. Okay. You say the Department of Justice
16 became involved. When did they become involved?

17 A. I want to say in November.

18 Q. Of '06?

19 A. Yes.

20 Q. And did you speak with the Department of
21 Justice?

22 A. A gentleman by the name of Booker Neal
23 out of San Francisco.

24 Q. FBI or special agent for the Department
25 of Justice?

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1 A. I have no idea, but I just know he was
2 up there recently previous a few years ago for
3 somebody burning a cross in some lady's yard. I
4 don't know what field he's in.

5 Q. And did you speak with any other agents
6 in the Department of Justice?

7 A. I spoke with a gentleman by the name of
8 Brian Cook. I think he's in San Rafael FBI
9 headquarters.

10 Q. Okay. And do you know the outcome of
11 their investigation?

12 A. No, I do not. FBI agents, they don't
13 disclose that type of information.

14 Q. Have you ever been -- have you ever been
15 called to testify in a hearing regarding the
16 Clearlake Police Department besides this
17 deposition hearing?

18 A. I've only been out there prior to this
19 about a -- say, a year maybe, so no.

20 Q. Do you know if your wife spoke with
21 these agents, as well?

22 A. She spoke with Booker Neal and
23 Brian Cook, as well.

24 Q. And do you know if anybody else spoke
25 with them? Do you know if there was anybody else

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1 that spoke with them?

2 A. Everybody -- everybody at the meeting
3 spoke with Booker Neal, Ella Baker Department.
4 There was written statements made through the
5 Ella Baker Department.

6 Q. What's the Ella Baker Department?

7 A. It's in Oakland. It's for -- it's like
8 police watch, a foundation organized for police
9 misconduct.

10 And also there was complaints written up
11 on January 30th when Ella Baker and the
12 Department of Justice came to my home to
13 interview these people in regards to complaints
14 filed against these officers.

15 Q. When was this?

16 A. January 30th.

17 Q. Of what year?

18 A. '07.

19 Q. So is that when you met Agent Neal and
20 Agent Booker -- I'm sorry -- Agent Neal and
21 Agent Cook, was at that meeting of January 30th?

22 A. No. Brian Cook never came to the
23 meeting. I spoke with him over the telephone.

24 Q. Okay. And did --

25 A. Booker Neal, he's the gentleman that

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1 came to my residence.

2 Q. And that was on January 30th, 2007?

3 A. Yes. Yes.

4 Q. And since then have you spoken with any
5 agents from the Department of Justice?

6 A. No.

7 Q. Have you had any more meetings regarding
8 the Clearlake Police Department?

9 A. They shut me down on all of that.

10 Q. Okay. Who shut you down?

11 A. The police, defamation of character.

12 They're going around telling people that we go
13 from town to town bribing people and suing police
14 departments.

15 Q. Okay. Have you ever sued a police
16 department before?

17 A. No.

18 Q. Have you ever filed any police -- any
19 suits of any kind prior to this one?

20 A. No.

21 Q. And were you present when you heard a
22 police officer say to you or anyone that you went
23 from town to town filing police lawsuits?

24 A. A lady by the name of Linda Conaway who
25 used to work in the police department.

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- 1 Q. What's her name again?
- 2 A. Linda Conaway.
- 3 Q. Linda?
- 4 A. Conaway.
- 5 Q. L-i-n-d-a?
- 6 A. L-i-n-d-a, C-o-n-a-w-a-y.
- 7 Q. Linda C-o-n- --
- 8 A. -o-n-a-w-a-y.
- 9 Q. Conaway.
- 10 A. She was a employee for the -- I don't
know if the police department of the City of
11 Clearlake, whatever way. Her and a couple other
12 employees, they went to the FBI in regards to
13 stuff being written off, numerous different
14 things. I have her diary. She turned a diary
15 over to me in regards to her -- Tim Fassler, who
16 was another officer who worked for the
17 Clearlake --
- 18 THE REPORTER: Tim who?
- 19 THE WITNESS: Tim Fassler, spelled
20 F-a-s-s-l-e-r. He's no longer employed with the
21 Clearlake Police Department.
- 22 And a couple other people have went to
23 the FBI in regards to --
- 24 BY MR. ALLEN:

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1 Q. He went to the FBI also?

2 A. Yes.

3 Q. Okay. Have you spoke with Tim Fassler?

4 A. I spoke with Tim Fassler a few different
5 times, and then we just stopped speaking. For
6 what reason, I don't know.

7 Q. And what did Fassler tell you about the
8 Clearlake Police Department?

9 A. He just told me, you know, the things
10 that go on there that -- like as far as their
11 procedures as far as complaints being filed
12 against officers. There is no procedure. They
13 just basically do what they want to do.

14 He was later charged for a crime for
15 giving alcohol to a minor or something like that.
16 He ended up moving out to the -- I don't know
17 where he is now. I think out here somewhere.
18 But him and a few other employees.

19 Linda Conaway, she was one of them who
20 attended the meeting.

21 Q. What did Conaway tell you about the
22 police department?

23 A. Well, she had told me -- she had stated
24 to me that Fassler -- she had a neighbor that she
25 couldn't stand, and Fassler and her had conjured

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1 up a fake 911 call to come into this person's
2 house. And she knew, I guess, he had drugs or
3 something in his home and arrested him under a
4 fake 911 call.

5 But her whole reason for going to the
6 FBI, from what she told me, is that the
7 government grants and the State grants that was
8 given to the County or the City of Clearlake was
9 basically being trimmed where they were pocketing
10 the money. And they went to the FBI in regards
11 to her writing off the different accounts and
12 whatnot, so to speak.

13 Q. So just so I'm --

14 A. Just to let you know, that pertains to
15 nothing of my complaint. That's something that
16 she brought to my attention and to the Department
17 of Justice attention, that she went to the FBI,
18 as well.

19 Q. Well, what I wanted to get at --

20 A. The mayor even went to the FBI, as well.

21 Q. But you believe -- you think that
22 Fassler was -- was Fassler terminated, do you
23 know? I mean, do you --

24 A. Fassler -- Fassler, he had a case
25 brought against him for, I think, giving alcohol

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1 to a minor or something like that.

2 Q. Do you know if -- do you know, was
3 Conaway terminated?

4 A. I have no idea what her status or reason
5 for leaving: retirement, fired, kicked out; I
6 have no idea.

7 Q. But both of them have told you there's
8 problems with the police department?

9 A. Yes. Not only her, numerous people in
10 the community. Officer Brady, who is a current
11 officer there, came to my home.

12 Q. That's what I want to talk to you now.
13 Who's -- Officer who came to your home?

14 A. Officer Brady, spelled B-r-a-d-y.

15 Q. And he came to your home and told you
16 what?

17 A. And he came to my house -- well, I spoke
18 with Officer Brady numerous different times, but
19 in this particular time, he came to my home and,
20 you know, explained to me, "Hey, look," you know,
21 "Celli" -- he explained to me about one incident
22 in particular involving Celli involved in a
23 public bar drinking and he pulled a gun on
24 another individual that was in the bar. And also
25 told me that Hobbs and Celli have numerous

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1 complaints against them.

2 Q. And what else has Brady told you about
3 the police department?

4 A. That's about it.

5 Q. All right.

6 A. I'm going to tell the truth, what he --
7 exactly what he told me, so...

8 Q. All right. And why was he at your home
9 that day?

10 A. Well, that was just one of the
11 particular times. He -- he lives, like, I want
12 to say, maybe seven, eight -- don't quote me for
13 that -- seven, eight, nine, ten blocks away from
14 me, and he bikes rides through the neighborhood.
15 I happened to be outside playing with my kids.
16 And he seen me, stopped with me, go, "Hey, what's
17 going on?" Okay. You know, just generally
18 speaking.

19 Q. What other people have come to you? You
20 mentioned the mayor. Has the mayor spoken with
21 you about --

22 A. No. She -- I never spoke to the mayor.
23 I was going off the regard --

24 Q. Correct.

25 A. -- a statement that she made.

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1 A. Yes, they completely stopped once they
2 found out that this lawsuit was in motion.

3 Q. All right. Did you ever speak with the
4 chief of police regarding these incidents, you
5 personally?

6 A. I spoke with the captain, Ron Larsen --

7 Q. All right.

8 A. The same individual who later turned
9 around and told Labbe that "we don't need those
10 kind of people in our town." What kind of people
11 am I?

12 Q. Okay. You have -- there's been no --
13 the Clearlake Police Department has had no --

14 A. I never spoke --

15 Q. -- has had no further contact with you
16 or Page Davis since January 30th, 2007?

17 A. No.

18 Q. Okay.

19 A. Except -- hold on. When did you say?
20 After January of 0007?

21 Q. Well, you said that --

22 A. Except for that time they came by the
23 house.

24 Q. -- you made -- the DOJ agent came to
25 your house -- Neal Booker {sic} came to your

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1 house --

2 A. January 30th.

3 Q. -- around January 30th, 2007?

4 A. Yes. Yes.

5 Q. Has Clearlake Police Department stopped

6 -- did they stop all contact with you after that?

7 A. Well --

8 Q. Assuming -- we don't know when the 911
9 call was. Other than the 911, possibly?

10 A. No, I haven't had any more problems with
11 them, but I avoid being out -- Sergeant Celli, I
12 believe, is on day shift now. I try to be pretty
13 familiar on which shifts he's on.

14 Q. Okay. And how about Page? Has she had
15 any problems with the Clearlake Police Department
16 since the meeting with Agent Booker and the DOJ?

17 A. Has she -- excuse me?

18 Q. Since the meeting in January with
19 Agent Booker in January 2007, has your wife had
20 any contacts with the Clearlake Police
21 Department?

22 A. No.

23 Q. All right. And I understand this
24 complaint was taken from a book, but I have to
25 ask you this question because we have talked